

### § 120.433

in which it has sold a participating interest.

#### **§ 120.433 What are SBA's other requirements for sales and sales of participating interests?**

SBA requires the following:

(a) The Lender must be in good standing as determined by the AA/FA; and

(b) In transactions requiring SBA's consent, all documentation must be satisfactory to SBA, including, if SBA determines it to be necessary, a multi-party agreement.

#### **§ 120.434 What are SBA's requirements for loan pledges?**

(a) Except as set forth in § 120.435, SBA must give its prior written consent to all pledges of any portion of a 7(a) loan, which consent SBA may withhold in its sole discretion;

(b) The Lender must be in good standing as determined by the AA/FA;

(c) All loan documents must be satisfactory to SBA and must include a multi-party agreement among SBA, Lender, the pledgee, FTA and such other parties as SBA determines are necessary;

(d) The Lender must use the proceeds of the loan secured by the 7(a) loans only for financing 7(a) loans and for costs and expenses directly connected with the borrowing for which the loans are pledged;

(e) The Lender must remain the servicer of the loans and retain possession of all loan documents other than the original promissory notes;

(f) The Lender must deposit the original promissory notes at the FTA; and

(g) The Lender must retain an economic interest in and the ultimate risk of loss on the unguaranteed portion of the loans.

#### **§ 120.435 Which loan pledges do not require notice to or consent by SBA?**

Notwithstanding the provisions of § 120.434(d), 7(a) loans may be pledged for the following purposes without notice to or consent by SBA:

- (a) Treasury tax and loan accounts;
- (b) The deposit of public funds;
- (c) Uninvested trust funds;
- (d) Discount borrowings at a Federal Reserve Bank; or

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(e) Advances by a Federal Home Loan Bank.

#### **CERTIFIED LENDERS PROGRAM (CLP)**

#### **§ 120.440 What is the Certified Lenders Program?**

Under the Certified Lenders Program (CLP), designated Lenders process, close, service, and may liquidate, SBA guaranteed loans. SBA gives priority to applications and servicing actions submitted by Lenders under this program, and will provide expedited loan processing or servicing. All other rules in this part 120 relating to the operations of Lenders apply to CLP Lenders.

[61 FR 3235, Jan. 31, 1996; 61 FR 7986, Mar. 1, 1996]

#### **§ 120.441 How does a Lender become a CLP Lender?**

(a) An SBA field office may nominate a Lender or a Lender may request a field office to consider it for CLP status. SBA district directors may approve and renew a Lender's CLP status. The district director will consider whether the Lender:

(1) Has the ability to process, close, service and liquidate loans;

(2) Has a satisfactory performance history with SBA, including the submission of complete and accurate loan guarantee application packages;

(3) Has an acceptable SBA purchase rate; and

(4) Has shown the ability to work well with the local SBA office.

(b) If the district director does not approve a request for CLP status, the Lender may appeal to the AA/FA, whose decision will be final. If SBA grants CLP status, it applies only in the field office that processed the CLP designation. A CLP Lender must execute a Supplemental Guarantee Agreement that will specify a term not to exceed two years.

#### **§ 120.442 Suspension or revocation of CLP status.**

The AA/FA may suspend or revoke CLP status upon written notice providing the reasons at least 10 business days prior to the effective date of the suspension or revocation. Reasons for suspension or revocation may include a

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loan performance record unacceptable to SBA, failure to make the required number of loans under the expedited procedures, or violations of applicable statutes, regulations or published SBA policies and procedures. A CLP Lender may appeal the suspension or revocation made under this section under procedures found in part 134 of this chapter. The action of the AA/FA remains in effect pending resolution of the appeal.

### PREFERRED LENDERS PROGRAM (PLP)

#### **§ 120.450 What is the Preferred Lenders Program?**

Under the Preferred Lenders Program (PLP), designated Lenders process, close, service, and liquidate SBA guaranteed loans with reduced requirements for documentation to and prior approval by SBA.

#### **§ 120.451 How does a Lender become a PLP Lender?**

(a) An SBA field office serving the area in which a Lender's office is located can nominate the Lender, or a Lender can request a field office to consider it for PLP status. The SBA field office will forward its recommendation to an SBA centralized loan processing center which will submit its recommendation and supporting documentation to the AA/FA for final decision.

(b) In making its decision, SBA considers whether the Lender:

- (1) Has the required ability to process, close, service and liquidate loans;
- (2) Has the ability to develop and analyze complete loan packages; and
- (3) Has a satisfactory performance history with SBA.

(c) If the Lender is approved, the AA/FA will designate the area in which it can make PLP loans.

(d) Before it can operate as a PLP Lender, the approved Lender must execute a Supplemental Guarantee Agreement, which will specify a term not to exceed two years.

(e) When a PLP's Supplemental Guarantee Agreement expires, SBA may recertify it as a PLP Lender for an additional term not to exceed two years. Prior to recertification, SBA will review a PLP Lender's loans, poli-

cies and procedures. The recertification decision of the AA/FA is final.

(f) A PLP Lender may request an expansion of the territory in which it can process PLP loans by submitting its request to a loan processing center. The center will obtain the recommendation of each SBA office in the area into which the PLP Lender would like to expand its PLP operations. The center will forward the recommendations to the AA/FA for final decision. If a PLP Lender is not a CLP Lender in a territory into which it seeks to expand its PLP status, it automatically obtains CLP status in that territory when it is granted PLP status for the territory.

#### **§ 120.452 What are the requirements of PLP loan processing?**

(a) Subparts A and B of this part govern the making of PLP loans, except for the following:

(1) Certain types of businesses, loans, and loan programs are not eligible for PLP, as detailed in published SBA policy and procedures.

(2) A Lender may not make a PLP business loan which reduces its existing credit exposure for any Borrower, except in cases where an interim loan(s) has been made for other than real estate construction purposes to the Borrower which was approved by the Lender within 90 days of receipt of the issuance for a subsequent PLP loan number.

(3) SBA will not guarantee more than the specified statutory percentage of any PLP loan.

(b) A PLP Lender notifies SBA of its approval of a PLP loan by submitting to SBA's loan processing center appropriate documentation signed by two of the PLP's authorized representatives. SBA will attach the SBA guarantee and notify the PLP Lender of the SBA loan number (if it does not identify a problem with eligibility, and funds are available).

(c) The PLP Lender is responsible for all PLP loan decisions regarding eligibility (including size) and creditworthiness. The PLP Lender is also responsible for confirming that all PLP loan closing decisions are correct, and that it has complied with all requirements of law and SBA regulations.